

ORIGINAL

Before the  
**FEDERAL COMMUNICATIONS COMMISSION** **RECEIVED**  
 Washington, D.C. 20554

NOV 13 2000

In the Matter of

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Amendment of Section 73.202(b)  
 Table of Allotments  
 FM Broadcast Stations  
 (Woodville and Wells, Texas)

)  
)  
)  
)  
)  
)

MM Docket No. 00-171  
 RM- 9926

To: Chief, Allocations Branch  
 Policy and Rules Division  
 Mass Media Bureau

### COMMENTS

Radio Woodville, Inc. ("Petitioner"), licensee of Station KVLL(FM), Woodville, Texas, by its counsel, hereby submits its Comments to the Notice of Proposed Rule Making ("NPRM"), (DA 00-2146), released September 22, 2000, proposing the reallocation of Channel 234C2 from Woodville to Wells, Texas as a first local service. Petitioner hereby confirms its interest in filing an application for Channel 234C2 at Wells, Texas and in constructing the facility, if the application is granted. In support hereof, Petitioner states as follows:

1. The NPRM recognized that Channel 234C2 can be allotted to Wells consistent with the Commission's spacing rule and that Wells is deserving of a first local service. However, the NPRM disputed the technical showing that purported to show that there would remain at least five aural services in the proposed 60 dBu loss area. The NPRM requested that a corrected showing be submitted.

No. of Copies rec'd  
 List ABCDE

014

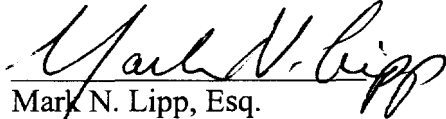
2. The attached engineering study demonstrates that with the removal of KVLL from Woodville, there would remain at least five aural services in the entire loss area. The attached study lists FM stations only because more than enough FM service is available without considering AM stations. Although the Commission staff questioned the showing that Petitioner provided in its Petition, it is not clear that the staff performed its own study.

3. Petitioner is relying on its corrected study. However, even if the Commission finds that there are areas that will be left with less than five aural services, as long as no unserved or underserved (white/grey) areas are created, the Commission has consistently favored Priority 3, first local service, over the creation of areas with only a third, fourth or fifth service. See e.g., Anniston, Alabama, et al., 15 FCC Rcd 9971 (2000); Huntsville and Willis, Texas, 10 FCC Rcd 3329 (1995); Earle, Pocohontas, and Wilson, Arkansas and Como and New Albany, Mississippi, 10 FCC Rcd 8270 (1995); and Homestead and North Miami Beach, Florida 10 FCC Rcd 13146 (1995). The importance of retaining five local services in the loss area is more relevant under Priority 4 where the comparison is with a community which already has a local service and Priorities 1 and 2 are inapplicable.

4. Accordingly, the Commission should favor a first local service to Wells, Texas over the retention of KVLL at Woodville where 100% of the loss area will continue to be well served and no unserved or underserved areas will be created.

Respectfully submitted,

RADIO WOODVILLE, INC.

By: 

Mark N. Lipp, Esq.  
Shook, Hardy & Bacon  
600 14th Street, NW  
Suite 800  
Washington, DC 20005  
(202) 783-8400

Its Counsel

November 13, 2000

## **KVLL(FM), Wells, Texas**

### **List of Stations in Remaining Services Study**

<b><u>Number</u></b>	<b><u>Call Letters</u></b>	<b><u>Channel</u></b>	<b><u>City of License</u></b>
1	KSWP	215C1	Lufkin, Texas
2	KLDN	205C1	Lufkin, Texas
3	KAVX	220C2	Lufkin, Texas
4	KSAU	211C3	Nacogdoches, Texas
5	KJCS	277C1	Nacogdoches, Texas
6	KTBQ	299C2	Nacogdoches, Texas
7	KUEZ	257C2	Lufkin, Texas
8	KYKS	286C	Lufkin, Texas
9	KAFX	238C1	Diboll, Texas
10	KETX	222C2	Livingston, Texas
11	KSBJ	207C1	Humble, Texas
12	KZJZ	295C	Conroe, Texas
13	KKTL	246C	Cleveland, Texas
14	KOVE	227C	Port Arthur, Texas

**KVLL, Wells, Texas  
Remaining Services  
Study**

**KVLL  
Loss  
Area**

0 15 30

**Kilometers**

**CERTIFICATE OF SERVICE**

I, Lisa M. Balzer, do hereby certify that I have on this 13th day of November, 2000 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**Comments**" to the following:

- \* Ms. Kathleen Scheuerle  
Federal Communications Commission  
445 12th Street, SW  
Room 3-A247  
Washington, DC 20554

  
Lisa M. Balzer

- \* HAND DELIVERED